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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ADVANTA-STAR AUTOMOTIVE
RESEARCH CORPORATION OF AMERICA,

Plaintiff,

v.

MADSEN HOLDINGS, LLC D/B/A MADSEN
MARKETING & PR; TIGER MOTORS LV,
INC. D/B/A INFINITI OF LAS VEGAS;
INFINITI AND BEYOND, LLC D/B/A
INFINITI OF NORTHERN KENTUCKY; and
BRITTANY MADSEN, an individual,

Defendants.

MADSEN HOLDINGS, LLC D/B/A MADSEN
MARKETING & PR; and BRITTANY
MADSEN, an individual,

Counterclaimants,

v.

ADVANTA-STAR AUTOMOTIVE
RESEARCH CORPORATION OF AMERICA,

Counter-Defendant.

CASE NO.: 2:21-cv-00026-RFB-BNW

**REVISED [PROPOSED] DISCOVERY
PLAN AND SCHEDULING ORDER**

(Special Scheduling Review Requested)

1 Pursuant to LR IA 6-2, LR II 7-1, LR II 26-1, and the Court's Minute Order entered on
2 April 15, 2021 (ECF No. 29), Plaintiff and Counter-Defendant Advanta-STAR Automotive
3 Research Corporation of America ("Plaintiff"), Defendants and Counterclaimants Madsen
4 Holdings, LLC d/b/a Madsen Marketing & PR and Brittany Madsen (together, the "Madsen
5 Defendants"), and Defendant Tiger Motors LV, Inc. d/b/a Infiniti of Las Vegas ("Defendant Tiger
6 Motors", and together with the Madsen Defendants, the "Defendants") (collectively, the "Parties"),
7 by and through their respective undersigned counsel of record, hereby submit this Revised
8 [Proposed] Discovery Plan and Scheduling Order.

9 **A. Procedural Posture:**

10 Plaintiff's Complaint was filed on January 6, 2021 (ECF No. 1). Defendant Tiger Motors
11 filed an Answer to the Complaint on February 5, 2021 (ECF No. 11). Plaintiff and the Madsen
12 Defendants jointly requested an extension of the Madsen Defendants' time to respond to the
13 Complaint, which this Court granted (ECF No. 16). Thereafter, the Madsen Defendants filed an
14 Answer and Counterclaim on March 5, 2021 (ECF No. 17). Plaintiff answered the counterclaims
15 on March 26, 2021 (ECF No. 26).

16 Plaintiff served Defendant Infiniti and Beyond, LLC d/b/a Infiniti of Northern Kentucky
17 ("Defendant Infiniti of Northern Kentucky") on January 13, 2021. Defendant Infiniti of Northern
18 Kentucky did not file an Answer or otherwise respond to the Complaint, and on March 19, 2021
19 Plaintiff filed an Application for Clerk's Entry of Default against Defendant Infiniti of Northern
20 Kentucky (ECF No. 25). The Clerk entered Default against Defendant Infiniti of Northern
21 Kentucky on April 6, 2021 (ECF No. 27).

22 **B. Rule 26 Conference:**

23 On March 18, 2021, counsel for the Parties participated in a telephonic conference pursuant
24 to Fed. R. Civ. P. 26(f) and LR II 26-1(a) (the "Rule 26 Discovery Conference"). Present for this
25 conference were: (1) James D. Boyle and Kendall Lovell of Holley Driggs, and Stephen M. Dorvee
26 of Arnall Golden Gregory LLP, on behalf of Plaintiff; (2) Erik J. Foley of Lewis Roca Rothberger
27 Christie LLP on behalf of Defendant Tiger Motors; and (3) Jonathan W. Fountain of Howard &
28 Howard Attorneys PLLC on behalf of the Madsen Defendants.

1 **C. Requested Special Scheduling Timeframe:**

2 Pursuant to LR II 26-1(a), the Parties hereby request a discovery timeframe that exceeds
3 the standard scheduling deadlines set forth in LR II 26-1(b). The Parties respectfully suggest that
4 the following explanations provide a good faith and reasonable justification for establishing a
5 longer time period for discovery in this multi-party litigation.

6 Initially, the Parties agreed during the Rule 26 Discovery Conference to set a discovery
7 cutoff deadline from the date that the Madsen Defendants filed their Answer—March 5, 2021,
8 which was set by Stipulation and Order of this Court—rather than from the date that Defendant
9 Tiger Motors filed its Answer (February 5, 2021). The consensus on this point was based on a
10 belief that Plaintiff and the Madsen Defendants should have a full and fair timeframe in which to
11 complete discovery that would not be unnecessarily restricted by measuring the discovery window
12 based on the earlier date attributable to the date Defendant Tiger Motors filed its Answer. In
13 addition, the Parties wanted to ensure that all claims, defenses, and counterclaims were fully
14 framed prior to the commencement of discovery.

15 Furthermore, the Parties agreed that discovery in this action—which largely is based upon
16 copyright infringement issues—would necessitate requests for documentation from the United
17 States Copyright Office. At present, this federal office is significantly impacted by the COVID-19
18 pandemic and such impacts are particularly acute as to processing delays for service of subpoenas
19 and obtaining responsive documents and materials. See <https://www.copyright.gov/coronavirus/>.
20 The Parties also recognized that expert witness analysis and reports based upon copyright
21 infringement issues, including the receipt and processing of documentation and information from
22 the U.S. Copyright Office, would likewise be adversely impacted by processing delays attributable
23 to the pandemic.

24 Thus, the Parties respectfully request that the Court grant a discovery cutoff deadline that
25 is 325 days from the date that the Madsen Defendants filed their Answer and Counterclaims.

26 **D. Initial Disclosures:**

27 Pursuant to Fed. R. Civ. P. 26(f) and LR 26-1(a), the Parties agreed to submit their Initial
28 Disclosures on or before March 31, 2021. Plaintiff served its Initial Disclosures on March 31,

2021. The Madsen Defendants served their Initial Disclosures on April 1, 2021. To date, Defendant Tiger Motors has not yet served its Initial Disclosures.

E. Discovery Plan:

1. Discovery Cut-Off Date:

For the good faith reasons set forth above, discovery shall be completed not later than January 14, 2022.

2. Amending the Pleadings and Adding Parties:

All motions to amend the pleadings or to add parties shall be filed by October 18, 2021, which is 88 days prior to the close of discovery (the 90th day falling on the previous Saturday), pursuant to LR II 26-1(b)(2).

3. Fed. R. Civ. P. 26(a)(2) Disclosures:

Initial disclosures concerning experts shall be made no later than November 15, 2021, which is 60 days prior to the close of discovery, pursuant to LR II 26-1(b)(3). Rebuttal expert disclosures shall be made no later than December 15, 2021, which is 30 days after the initial disclosure of experts, pursuant to LR II 26-1(b)(3).

4. Dispositive Motions:

The deadline for filing dispositive motions shall be February 14, 2022, which is 31 days after the close of discovery (the 30th day falling on the previous Sunday), pursuant to LR II 26-1(b)(4). In the event the discovery cut-off deadline is extended, the deadline for filing dispositive motions will be automatically extended until 30 days after the new discovery cut-off date.

5. Pre-Trial Order:

The deadline for filing the joint pre-trial order shall be no later than March 16, 2022, which is 30 days after the date set for filing dispositive motions, pursuant to LR II 26-1(b)(5). In the event that dispositive motions are filed, the date for filing the joint pre-trial order shall be suspended until 30 days after entry of an order on the dispositive motions or until further order of the Court.

6. Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures:

Pursuant to LR II 26-1(b)(6), the disclosures required by Fed. R. Civ. P. 26(a)(3), and any objections thereto, shall be included in the Joint Pre-Trial Order.

1 **F. Protective Orders for Confidential Documents and/or Information:**

2 The Parties agree that this case will involve the disclosure of confidential business and
3 personal information. Therefore, the Parties stipulate and agree that a protective order is warranted
4 and will separately submit a stipulated protective order or move for entry of a protective order.
5 The Parties further agree that the forthcoming protective order will include two tiers of
6 confidentiality protection, providing that documents or materials produced may be designated
7 either “Confidential” or “Highly Confidential – Attorneys Eyes Only.”

8 **G. Subjects of Discovery:**

9 The Parties agree may be taken on any subjects permitted by the Federal Rules of Civil
10 Procedure.

11 **H. Possibility of Settlement:**

12 The Parties have not engaged in any settlement discussions at this time.

13 **I. Alternative Dispute Resolution:**

14 Pursuant to LR II 26-1(b)(7), the Parties discussed the possibility of using alternative
15 dispute resolution processes in this action.

16 **J. Discovery Phases:**

17 The Parties do not believe it necessary to conduct discovery in phases or to limit or focus
18 discovery on particular issues.

19 **K. Alternative Forms of Case Disposition:**

20 Pursuant to LR II 26-1(b)(8), the Parties certify that they have considered consent to trial
21 by a magistrate judge pursuant to 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73, as well as the use of
22 the Short Trial Program. The Parties do not believe that this case is appropriate for alternative
23 forms of case disposition.

24 **L. Electronic Evidence Presented to the Jury:**

25 The Parties verify they have discussed whether they intend to present evidence in electronic
26 format to jurors for the purpose of jury deliberations. Discussions between the Parties will be
27 ongoing as the trial date approaches, and the Parties stipulate that they intend to present any
28 electronic evidence in a format compatible with the Court’s electronic evidence display system.

At this time, the Parties do not request a pretrial conference.

Dated this 28th day of April, 2021.

**HOWARD & HOWARD ATTORNEYS,
PLLC**

Las Vegas, Nevada 89169

*Attorneys for Defendants and
Counterclaimants Brittany Madsen and
Madsen Holdings, LLC*

Dated this 28th day of April, 2021.

**LEWIS ROCA ROTHGERBER
CHRISTIE LLP**

*Attorneys for Defendant Tiger Motors LV, Inc.
d/b/a Infinity of Las Vegas*

Before the Court is the parties' proposed discovery plan and scheduling order. ECF No. 30. The parties seek approximately 325 days of discovery because of COVID-related delays with the copyright office. IT IS ORDERED that the parties' stipulation is DENIED. The Court finds that the parties have not established good cause for a 325-day discovery period. The parties are directed to file another proposed DPSO by 5/7/2021. The parties may seek a maximum of 9 months of discovery, measured from the date that the Madsen defendants answered.

DATED: 2:50 pm, April 30, 2021

BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE